

REMARKS

In the Office Action, the Examiner rejected claims 1, 3, 6, 8-10, 13, 14, 16, 17, 19, and 23 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,043,477 to Mercer et al. ("*Mercer*"), U.S. Patent No. 4,667,314 to Iwashima ("*Iwashima*"), U.S. Published Patent Application No. 2002/0031071 to Han et al. ("*Han*"), and U.S. Published Patent Application No. 2002/0103796 to Hartley et al. ("*Hartley*"); rejected claims 18 and 20 under 35 U.S.C. § 103(a) as being unpatentable over *Mercer*, *Iwashima*, *Han*, *Hartley* and U.S. Published Patent Application No. 2003/0236582 to Zamir et al. ("*Zamir*"); and rejected claims 21 and 22 under 35 U.S.C. § 103(a) as being unpatentable over *Mercer*, *Iwashima*, *Han*, *Hartley*, and U.S. Patent No. 6,707,768 to Shilling et al. ("*Shilling*").

By this amendment, Applicants amend claims 1, 8-10, 14, and 23. Support for these amendments can be found, for example, in Figures 5A, 5B, and items S302 and S303 of Figure 7. Claims 1, 3, 6, 8-10, 13, 14, and 16-23 are pending.

Applicants respectfully traverse the rejection of claims 1, 3, 6, 8-10, 13, 14, 16, 17, 19, and 23 under 35 U.S.C. § 103(a) as being unpatentable over *Mercer*, *Iwashima*, *Han*, and *Hartley*.

Independent claim 1 recites an audio playback apparatus, including "playback unit specification means for specifying a shuffle unit as any one of a folder, an album, and a music file, for use in selecting music file groups," and "means for displaying shuffle ranges according to the specified shuffle unit." On page 10 of the Office Action, the Examiner concedes that *Mercer* does not disclose the claimed "shuffle ranges" and instead relies on *Hartley*.

Hartley discloses a music player allowing a user to define a category for songs. *Hartley*, ¶ [0031]. “The player would then perform a shuffle on only those files having a value for a particular user-defined parameter, allowing the user to eliminate files that do not fit a particular category.” *Hartley*, ¶ [0031].

Hartley’s user-defined parameter does not constitute the claimed “shuffle ranges” at least because *Hartley* does not teach or suggest “means for displaying shuffle ranges according to the specified shuffle unit,” as recited in claim 1 (emphasis added). Indeed, *Hartley* is silent with respect to “displaying shuffle ranges according to” anything, much less “the specified shuffle unit.”

Iwashima and *Han* fail to cure the deficiencies of *Mercer* and *Hartley* because they also fail to teach or suggest “shuffle ranges” as recited in claim 1. Accordingly, combinations of *Mercer*, *Iwashima*, *Han*, and *Hartley* fail to teach or suggest claim 1.

Independent claims 8, 9, 10, 14, and 23, while of different scope than claim 1, distinguish over *Mercer*, *Iwashima*, *Han*, and *Hartley* for reasons similar to claim 1. Claims 3, 6, 13, 16, 17, and 19 distinguish over *Mercer*, *Iwashima*, *Han*, and *Hartley* at least due to their dependence from one of the independent claims.

Applicants respectfully traverse the rejection of claims 18 and 20 under 35 U.S.C. § 103(a) as being unpatentable over *Mercer*, *Iwashima*, *Han*, *Hartley* and *Zamir*, and the rejection of claims 21 and 22 under 35 U.S.C. § 103(a) as being unpatentable over *Mercer*, *Iwashima*, *Han*, *Hartley*, and *Shilling*.

Claims 18 and 20-22 depend from one of independent claims 1 and 10, and include all recitations therein. As discussed, *Mercer*, *Iwashima*, *Han*, and *Hartley* do not teach or suggest the independent claims.

Zamir and *Shilling* fail to cure the deficiencies of *Mercer*, *Iwashima*, *Han*, and *Hartley* by also failing to teach or suggest the claimed "shuffle ranges" of claim 1, and similar recitations of claim 10. Therefore, combinations of *Mercer*, *Iwashima*, *Han*, *Hartley*, *Zamir*, and *Shilling* fail to teach or suggest any of claims 18 and 20-22.

In view of the foregoing, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: September 8, 2009

By: 
Fahd Hussein Patel
Reg. No. 61,780
(202) 408-6072